THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.4855 OF 2004

DATE: 25-7-2007

Between:

Veeravarapu Brahmam .. Petitioner

And

1. The state of A.P. rep. By the Commissioner of Prohibition & Excise, Hyderabad and another … Respondents

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.4855 OF 2004

ORDER:

Aggrieved by the order of the Deputy Commissioner of Excise & Prohibition dated 30.11.2002 confiscating the petitioner's Taxi Cab bearing Registration No.AP 16 U 988, seized in Crime No.88 of 2001 under Section 34(A) of the A.P. Excise Act, the present writ petition is filed.

The petitioner is the owner of the vehicle. On 13.8.2002 the Sub-Inspector of Police, Pamarru along with his staff intercepted the petitioner's car and found 90 NIPS of IML bottles being transported to Gandhi Ashramam to distribute the same to voters of the area to vote in favour of one Sri S. Rambabu, 9th Ward contesting candidate. The driver (A-1) and a passenger (A-2) were found in the car and on search two cardboard boxes containing the 90 London Whisky quarter bottles were found. Crime No.88/2001 was registered under Section 34(A) of the A.P. Excise Act and the taxi and the property found therein were seized and deposited with the 2nd respondent. The vehicle was later released on interim custody.

The 2nd respondent issued show cause notice to the petitioner and thereafter passed orders confiscating the vehicle. The petitioner preferred an appeal to the 1st respondent who, by order dated 21.1.2004, dismissed the appeal. The appellate authority noted that the vehicle was registered as a taxi cab, that it was caught on 13.8.2001 when elections were scheduled on the morning of 14.8.2001, that it was evident that liquor was being transported to woo voters on the eve of elections, that the intentions of the driver of the vehicle, who was in the employment of the owner, were found to be dishonourable, that their criminal

intention or *mens rea* was evident and that, under proceedings under Section 45, the responsibility and the liability devolved on the owner for the action of his servant. The 1st respondent held that the owner did not place on record any evidence to show that he took adequate steps to prevent misuse of his vehicle. Having so concluded the 1st respondent dismissed the appeal.

Sri K.Prakash Chakravarthi, learned counsel for the petitioner, would submit that the vehicle seized was a 1970 model Ambassador Car, which can no longer be put to use and that the petitioner is aggrieved only to the extent of the bank guarantee of Rs.10,000/- furnished by him. It is only when the order of the 2nd respondent, as confirmed in appeal by the 1st respondent, is found to suffer from such an illegality as to necessitate interference of this Court under Article 226 of the Constitution of India, would he be entitled to such a relief.

The order of the 1st respondent is well considered and a reasoned order and does not necessitate interference.

The writ petition fails and is accordingly dismissed. No order as to costs.

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25-7-2007
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